



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF SOLID AND
HAZARDOUS WASTE
Dennis R. Downs
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

June 20, 2006

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shawn Raju
General Manager
Clean Harbors Aragonite, LLC
P.O. Box 22890
Salt Lake City, Utah 84122-0890

**SUBJECT: 2nd DRAFT, STIPULATION AND CONSENT ORDER for resolution of
NOTICE OF VIOLATION No. 0512039
UTD981552177**

Dear Mr. Raju:

Enclosed please find a draft STIPULATION AND CONSENT ORDER for resolution of NOTICE OF VIOLATION No. 0512039 issued to the Aragonite facility on December 8, 2005. The STIPULATION AND CONSENT ORDER has been modified as per our discussions to include a Supplemental Environmental Project (SEP). Please indicate to this office if the terms of the STIPULATION AND CONSENT ORDER are acceptable so that we can start the 30-day public comment period, after which it will be presented to the Board for consideration. Upon approval by the Board, it will be sent to Aragonite for signature. The time frames in the SCO will then become effective upon signature and dating by the Executive Secretary.

If you have any questions, please contact Rick Page at 538-6170.

Sincerely,

ORIGINAL DOCUMENT SIGNED BY DENNIS R. DOWNS ON 5/18/06

Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board

DRD/RAP/tm

Enclosures

BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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In the Matter of:	:	<u>DRAFT STIPULATION</u>
Clean Harbors Aragonite, LLC	:	<u>AND CONSENT ORDER</u>
UTD981552177	:	<u>No. 0602008</u>
	:	

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This Draft **STIPULATION AND CONSENT ORDER** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (the Act), §19-6-101, et seq., Utah Code Annotated (1953, as amended).

JURISDICTION

1. The Board has jurisdiction over the subject matter of this CONSENT ORDER pursuant to §19-6-112 Utah Code Annotated (1953, as amended), and jurisdiction over Clean Harbors Aragonite, LLC. Clean Harbors Aragonite, LLC and the Board are the parties to this agreement.

FINDINGS

2. Clean Harbors Aragonite, LLC (the Aragonite facility) is a Delaware company licensed to do business in Utah and is a subsidiary of Clean Harbors, Inc.
3. The Aragonite facility is a commercial hazardous waste incinerator, transfer, and storage facility in Tooele County, Utah. Clean Harbors Aragonite, LLC operates the Aragonite facility under the provisions of the State-issued Hazardous Waste Part B Permit issued on March 30, 1990, as modified (the Permit) on file with the Utah Department of Environmental Quality, Division of Solid and Hazardous Waste (the Division). The Permit was reissued effective May 8, 2000.
4. The Aragonite facility is a “person” as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules), the Act, and the Permit.
5. Authorized representatives of the Utah Solid and Hazardous Waste Control Board (inspectors) conducted hazardous waste inspections at the Aragonite facility during October 2004 through September 2005.
6. The Board issued NOTICE OF VIOLATION No. 0512039 (the NOV) on December 8, 2005, alleging violations by Clean Harbors Aragonite, LLC of the Permit.

7. Clean Harbors Aragonite, LLC filed responses to the NOV on January 9, 2006 and January 13, 2006, and reserved its right for a hearing before the Board.

STIPULATION AND CONSENT ORDER

8. The parties now wish to fully resolve the NOV without further administrative or judicial proceedings. By entering into this CONSENT ORDER, Clean Harbors Aragonite, LLC withdraws its request for a hearing.
9. In full settlement of the violations alleged in the NOV, Clean Harbors Aragonite, LLC shall pay a penalty of Thirty Seven Thousand Two Hundred Ninety Three (37,293.00) Dollars. The penalty shall be paid as follows:
 - a. A cash payment of Thirty Five Thousand Two Hundred Ninety Three (35,293.00) Dollars shall be made within thirty (30) days of entry into this CONSENT ORDER. Payment shall be made to the State of Utah, Department of Environmental Quality, c/o Dennis R. Downs, Executive Secretary, Utah Solid and Hazardous Waste Control Board, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - b. Two Thousand (2,000.00) Dollars will be credited towards the penalty in the form of a Supplemental Environmental Project (SEP). The SEP shall be related to the construction of a fence or other barrier to prevent tumbleweeds from accumulating along the perimeter fence and firebreak. The SEP shall be credited at fifty cents for each dollar spent, provided that Clean Harbors Aragonite, LLC expends at least Four Thousand (4,000.00) Dollars on the SEP. Clean Harbors Aragonite, LLC shall submit for approval the proposed SEP to the Executive Secretary of the Solid and Hazardous Waste Control Board within sixty (60) days of execution of this CONSENT ORDER. The proposed SEP shall contain procedures for implementation.
 - c. Within one year of entry into this Consent Order, Clean Harbors Aragonite, LLC shall have implemented the approved SEP or shall pay Two Thousand (2,000.00) Dollars to the Executive Secretary. Within Sixty (60) days of completion of the SEP, Clean Harbors Aragonite, LLC shall submit to the Executive Secretary a report showing costs and expenditures supporting the SEP.
10. This amount has been determined in accordance with the Board's Civil Penalty Policy, which considers such factors as gravity of the violation(s), good faith efforts to comply or lack of good faith, degree of willfulness or negligence, history of compliance or noncompliance, ability to pay, and other factors.

EFFECT OF CONSENT ORDER

11. For the purpose of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or

unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against Clean Harbors Aragonite, LLC in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, or with the Permit; nor shall the State be precluded in any way from taking appropriate action should such a situation arise again at the Clean Harbors Aragonite, LLC facility. However, entry into this CONSENT ORDER shall relieve Clean Harbors Aragonite, LLC of all liability for violations which did arise or could have arisen with respect to the allegations contained in the NOV.

EFFECTIVE DATE

12. This CONSENT ORDER shall become effective upon execution by Clean Harbors Aragonite, LLC and the Executive Secretary of the Board.

Dated this _____ day of _____, 2006

Clean Harbors
Aragonite, LLC

Utah Solid and Hazardous Waste
Control Board

Shawn Raju
General Manager

Dennis R. Downs
Executive Secretary

SETTLEMENT PENALTY AMOUNT

Company Name	<u>Clean Harbors Aragonite</u>	NOV #	<u>0512039</u>	prepared by	<u>DSHW</u>
EPA ID#	<u>UTD 981 552 177</u>	NOV date	<u>December 8, 2005</u>	date prepared	<u>May 10, 2006</u>

violation number (from NOV)		1	2	3	4	5
violation description		untracked containers	rejected wastes	generator requirements	container stacking	waste tracking
1.	Gravity based penalty from matrix	<u>\$3,380</u>	<u>\$900</u>	<u>\$155</u>	<u>\$120</u>	<u>\$80</u>
	(a) Potential for harm	<u>MODERATE</u>	<u>MINOR</u>	<u>MINOR</u>	<u>MINOR</u>	<u>MINOR</u>
	(b) Extent of deviation	<u>MODERATE</u>	<u>MAJOR</u>	<u>MINOR</u>	<u>MINOR</u>	<u>MINOR</u>
2.	Select an amount from the appropriate multiday matrix cell	<u>N/A</u>	<u>\$40</u>	<u>\$120</u>	<u>N/A</u>	<u>\$80</u>
3.	Multiply line 2 by number of days of violation minus 1 (or other number as appropriate)	<u>\$0</u>	<u>\$7,160</u>	<u>\$120</u>	<u>\$0</u>	<u>\$8,720</u>
4.	Add line 1 and 3	<u>\$3,380</u>	<u>\$8,060</u>	<u>\$275</u>	<u>\$120</u>	<u>\$8,800</u>
5.	Percent increase/decrease for good faith	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
6.	Percent increase/decrease for wilfulness/negligence	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
7.	Percent increase/decrease for history of compliance/noncompliance	<u>0%</u>	<u>30%</u>	<u>10%</u>	<u>10%</u>	<u>30%</u>
8.	Percent increase/decrease for other unique factors (except litigation risk)	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>	<u>0%</u>
9.	Total lines 5 through 8	<u>0%</u>	<u>30%</u>	<u>10%</u>	<u>10%</u>	<u>30%</u>
10.	Multiply line 4 by line 9	<u>\$0</u>	<u>\$2,418</u>	<u>\$28</u>	<u>\$12</u>	<u>\$2,640</u>
11.	Add lines 4 and 10	<u>\$3,380</u>	<u>\$10,478</u>	<u>\$303</u>	<u>\$132</u>	<u>\$11,440</u>
12.	Adjustment for environmental project	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
13.	Subtract line 12 from line 11	<u>\$3,380</u>	<u>\$10,478</u>	<u>\$303</u>	<u>\$132</u>	<u>\$11,440</u>
14.	Calculate economic benefit	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
15.	Add lines 13 and 14	<u>\$3,380</u>	<u>\$10,478</u>	<u>\$303</u>	<u>\$132</u>	<u>\$11,440</u>
16.	Adjustment amount for ability-to-pay	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
17.	Adjustment amount for litigation risk	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
18.	Add lines 16 and 17	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
19.	Subtract line 18 from line 15 for final settlement amount	<u>\$3,380</u>	<u>\$10,478</u>	<u>\$303</u>	<u>\$132</u>	<u>\$11,440</u>

SETTLEMENT PENALTY AMOUNT

Company Name	<u>Clean Harbors Aragonite</u>	NOV #	<u>0512039</u>	prepared by	<u>DSHW</u>
EPA ID#	<u>UTD 981 552 177</u>	NOV date	<u>December 8, 2005</u>	date prepared	<u>May 10, 2006</u>

violation number (from NOV)		6	7	8	9	10
violation description		infectious waste signs	refrigerating infectious waste	infectious waste -- 30 days	infectious waste coding	debris matrix
1.	Gravity based penalty from matrix	\$155	\$400	\$120	\$120	\$0
	(a) Potential for harm	MINOR	MINOR	MINOR	MINOR	N/A
	(b) Extent of deviation	MINOR	MODERATE	MINOR	MINOR	N/A
2.	Select an amount from the appropriate multiday matrix cell	N/A	\$520	N/A	N/A	N/A
3.	Multiply line 2 by number of days of violation minus 1 (or other number as appropriate)	\$0	\$1,040	\$0	\$0	\$0
4.	Add line 1 and 3	\$155	\$1,440	\$120	\$120	\$0
5.	Percent increase/decrease for good faith	0%	0%	0%	0%	0%
6.	Percent increase/decrease for wilfulness/negligence	0%	0%	0%	0%	0%
7.	Percent increase/decrease for history of compliance/noncompliance	0%	10%	0%	0%	0%
8.	Percent increase/decrease for other unique factors (except litigation risk)	0%	0%	0%	0%	0%
9.	Total lines 5 through 8	0%	10%	0%	0%	0%
10.	Multiply line 4 by line 9	\$0	\$144	\$0	\$0	\$0
11.	Add lines 4 and 10	\$155	\$1,584	\$120	\$120	\$0
12.	Adjustment for environmental project	\$0	\$0	\$0	\$0	\$0
13.	Subtract line 12 from line 11	\$155	\$1,584	\$120	\$120	\$0
14.	Calculate economic benefit	\$0	\$0	\$0	\$0	\$0
15.	Add lines 13 and 14	\$155	\$1,584	\$120	\$120	\$0
16.	Adjustment amount for ability-to-pay	\$0	\$0	\$0	\$0	\$0
17.	Adjustment amount for litigation risk	\$0	\$0	\$0	\$0	\$0
18.	Add lines 16 and 17	\$0	\$0	\$0	\$0	\$0
19.	Subtract line 18 from line 15 for final settlement amount	\$155	\$1,584	\$120	\$120	\$0

SETTLEMENT PENALTY AMOUNT

Company Name Clean Harbors Aragonite NOV # 0512039 prepared by DSHW
EPA ID# UTD 981 552 177 NOV date December 8, 2005 date prepared May 10, 2006

violation number (from NOV)		11	12	13	14	15
violation description		waste that inhibits analysis	WAP characterization procedure	quality assurance reports	TCLP room temperature	barcodes
1.	Gravity based penalty from matrix	\$120	\$120	\$0	\$155	\$155
	(a) Potential for harm	MINOR	MINOR	N/A	MINOR	MINOR
	(b) Extent of deviation	MINOR	MINOR	N/A	MINOR	MINOR
2.	Select an amount from the appropriate multiday matrix cell	N/A	\$120	N/A	N/A	\$120
3.	Multiply line 2 by number of days of violation minus 1 (or other number as appropriate)	\$0	\$120	\$0	\$0	\$720
4.	Add line 1 and 3	\$120	\$240	\$0	\$155	\$875
5.	Percent increase/decrease for good faith	0%	0%	0%	0%	0%
6.	Percent increase/decrease for wilfulness/negligence	0%	0%	0%	0%	0%
7.	Percent increase/decrease for history of compliance/noncompliance	0%	10%	0%	0%	10%
8.	Percent increase/decrease for other unique factors (except litigation risk)	0%	0%	0%	0%	0%
9.	Total lines 5 through 8	0%	10%	0%	0%	10%
10.	Multiply line 4 by line 9	\$0	\$24	\$0	\$0	\$88
11.	Add lines 4 and 10	\$120	\$264	\$0	\$155	\$963
12.	Adjustment for environmental project	\$0	\$0	\$0	\$0	\$0
13.	Subtract line 12 from line 11	\$120	\$264	\$0	\$155	\$963
14.	Calculate economic benefit	\$0	\$0	\$0	\$0	\$0
15.	Add lines 13 and 14	\$120	\$264	\$0	\$155	\$963
16.	Adjustment amount for ability-to-pay	\$0	\$0	\$0	\$0	\$0
17.	Adjustment amount for litigation risk	\$0	\$0	\$0	\$0	\$0
18.	Add lines 16 and 17	\$0	\$0	\$0	\$0	\$0
19.	Subtract line 18 from line 15 for final settlement amount	\$120	\$264	\$0	\$155	\$963

SETTLEMENT PENALTY AMOUNT

Company Name	<u>Clean Harbors Aragonite</u>	NOV #	<u>0512039</u>	prepared by	<u>DSHW</u>
EPA ID#	<u>UTD 981 552 177</u>	NOV date	<u>December 8, 2005</u>	date prepared	<u>May 10, 2006</u>

violation number (from NOV)		16	17	18	19	20
violation description		unaccepted waste storage locations	venting during backup operations	Subpart BB equipment/ database	emergency equipment	firebreak/ emergency exits
1.	Gravity based penalty from matrix	\$155	\$1,600	\$3,380	\$155	\$2,080
	(a) Potential for harm	MINOR	MODERATE	MODERATE	MINOR	MODERATE
	(b) Extent of deviation	MINOR	MINOR	MODERATE	MINOR	MINOR
2.	Select an amount from the appropriate multiday matrix cell	N/A	N/A	N/A	N/A	N/A
3.	Multiply line 2 by number of days of violation minus 1 (or other number as appropriate)	\$0	\$0	\$0	\$0	\$0
4.	Add line 1 and 3	\$155	\$1,600	\$3,380	\$155	\$2,080
5.	Percent increase/decrease for good faith	0%	0%	0%	0%	0%
6.	Percent increase/decrease for wilfulness/negligence	0%	0%	0%	0%	0%
7.	Percent increase/decrease for history of compliance/noncompliance	10%	0%	10%	10%	0%
8.	Percent increase/decrease for other unique factors (except litigation risk)	0%	0%	0%	0%	0%
9.	Total lines 5 through 8	10%	0%	10%	10%	0%
10.	Multiply line 4 by line 9	\$16	\$0	\$338	\$16	\$0
11.	Add lines 4 and 10	\$171	\$1,600	\$3,718	\$171	\$2,080
12.	Adjustment for environmental project	\$0	\$0	\$0	\$0	\$2,000
13.	Subtract line 12 from line 11	\$171	\$1,600	\$3,718	\$171	\$80
14.	Calculate economic benefit	\$0	\$0	\$0	\$0	\$0
15.	Add lines 13 and 14	\$171	\$1,600	\$3,718	\$171	\$80
16.	Adjustment amount for ability-to-pay	\$0	\$0	\$0	\$0	\$0
17.	Adjustment amount for litigation risk	\$0	\$0	\$0	\$0	\$0
18.	Add lines 16 and 17	\$0	\$0	\$0	\$0	\$0
19.	Subtract line 18 from line 15 for final settlement amount	\$171	\$1,600	\$3,718	\$171	\$80

SETTLEMENT PENALTY AMOUNT

Company Name	<u>Clean Harbors Aragonite</u>	NOV #	<u>0512039</u>	prepared by	<u>DSHW</u>
EPA ID#	<u>UTD 981 552 177</u>	NOV date	<u>December 8, 2005</u>	date prepared	<u>May 10, 2006</u>

violation number (from NOV)		21	22
violation description		perimeter fence signs	overfill sludge tank
1.	Gravity based penalty from matrix	<u>\$155</u>	<u>\$155</u>
	(a) Potential for harm	<u>MINOR</u>	<u>MINOR</u>
	(b) Extent of deviation	<u>MINOR</u>	<u>MINOR</u>
2.	Select an amount from the appropriate multiday matrix cell	<u>N/A</u>	<u>N/A</u>
3.	Multiply line 2 by number of days of violation minus 1 (or other number as appropriate)	<u>\$0</u>	<u>\$0</u>
4.	Add line 1 and 3	<u>\$155</u>	<u>\$155</u>
5.	Percent increase/decrease for good faith	<u>0%</u>	<u>-10%</u>
6.	Percent increase/decrease for wilfulness/negligence	<u>0%</u>	<u>0%</u>
7.	Percent increase/decrease for history of compliance/noncompliance	<u>0%</u>	<u>30%</u>
8.	Percent increase/decrease for other unique factors (except litigation risk)	<u>0%</u>	<u>0%</u>
9.	Total lines 5 through 8	<u>0%</u>	<u>20%</u>
10.	Multiply line 4 by line 9	<u>\$0</u>	<u>\$31</u>
11.	Add lines 4 and 10	<u>\$155</u>	<u>\$186</u>
12.	Adjustment for environmental project	<u>\$0</u>	<u>\$0</u>
13.	Subtract line 12 from line 11	<u>\$155</u>	<u>\$186</u>
14.	Calculate economic benefit	<u>\$0</u>	<u>\$0</u>
15.	Add lines 13 and 14	<u>\$155</u>	<u>\$186</u>
16.	Adjustment amount for ability-to-pay	<u>\$0</u>	<u>\$0</u>
17.	Adjustment amount for litigation risk	<u>\$0</u>	<u>\$0</u>
18.	Add lines 16 and 17	<u>\$0</u>	<u>\$0</u>
19.	Subtract line 18 from line 15 for final settlement amount	<u>\$155</u>	<u>\$186</u>

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 1

NOV date: December 8, 2005

violation description: untracked containers

Gravity Based Penalty

Potential for Harm – MODERATE – Although the “untracked” function can be used to correct an incorrect transaction, it also deletes waste tracking history that may be correct or is necessary to tell what exactly happened to a drum.

Extent of Deviation – MODERATE – At the time of the inspection (more than a month after the NOV/CO) Aragonite had not set up a system to record this history; the person responsible for untracking wastes was not aware of the requirement to record the history.

Multiple/Multi-day – Although several instances were likely, only one was documented.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Environmental Projects – N/A

Ability to pay – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 2

NOV date: December 8, 2005

violation description: rejected wastes

Gravity Based Penalty

Potential for Harm – MINOR – The drums were segregated and stored in a permitted area while on-site.

Extent of Deviation – MAJOR – Many of the drums remained on-site for significantly longer than the allowed 30 days (at least up to 243 days). The reject date was not documented for many of the drums so it was impossible to tell how long they were actually there. Some of the drums were not recorded in waste tracking.

Multiple/Multi-day – Although some rejected drums were stored longer, the recommended maximum of 180 days was used.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue has been on three of the last five NOV's

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instances that were documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 3

NOV date: December 8, 2005

violation description: generator
requirements

Gravity Based Penalty

Potential for Harm – MINOR – Although the lack of labels could contribute to the problem of lost or unaccounted drums, the site is secure and the waste was stored in permitted facilities.

Extent of Deviation – MINOR – Aragonite complies with these requirements most of the time.

Multiple/Multi-day – Problems were noted on two separate occasions.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instances that were documented occurred before and after February 25, 2005, so both penalty matrices were used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 4

NOV date: December 8, 2005

violation description: container stacking

Gravity Based Penalty

Potential for Harm -- MINOR -- Only one drum was involved. It was in a containment area and was cleaned up immediately.

Extent of Deviation -- MINOR -- Thousands of containers are managed at the facility. Very few problems were found in comparison.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 5

NOV date: December 8, 2005

violation description: waste tracking

Gravity Based Penalty

Potential for Harm – MINOR – Although discrepancies were noted, it is likely that most of the wastes were eventually managed appropriately. However, the response to the NOV shows that several containers were never resolved.

Extent of Deviation – MINOR – A computerized waste tracking system is in place which tracks thousands of containers. Relatively few errors were found in comparison.

Multiple/Multi-day – At least 110 containers were cited in the NOV.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue has been on all five of the last five NOV's

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information –

NOTE: All but four of the instances that were documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 6

NOV date: December 8, 2005

violation description: infectious waste
signs

Gravity Based Penalty

Potential for Harm – MINOR – The refrigerated unit was in a secure area and containers within the unit were properly labeled.

Extent of Deviation – MINOR – The containers within the refrigerated unit were properly labeled.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 7

NOV date: December 8, 2005

violation description: refrigerating
infectious waste

Gravity Based Penalty

Potential for Harm – MINOR – The containers were sealed and stored in a building that prevents extreme temperatures.

Extent of Deviation – MODERATE – Aragonite had secured a refrigerated storage trailer and had permitted a location to store the wastes in the van if it became necessary. However, some times the trailer was not used, or there was insufficient capacity within the trailer to hold all of the waste.

Multiple/Multi-day – Three different occurrences were cited in the NOV.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information –

NOTE: The instances that were documented occurred before and after February 25, 2005, so both penalty matrices were used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 8

NOV date: December 8, 2005

violation description: infectious waste – 30
days

Gravity Based Penalty

Potential for Harm – MINOR – The containers were sealed and stored in a building that prevents extreme temperatures.

Extent of Deviation – MINOR – Aragonite complies with this requirement most of the time.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 9

NOV date: December 8, 2005

violation description: infectious waste
coding

Gravity Based Penalty

Potential for Harm – MINOR – Although the drums were coded incorrectly and could not be identified in waste tracking, it is likely that these particular containers would have been managed correctly.

Extent of Deviation – MINOR – Although there were a significant number of containers involved, it only occurred on one occasion.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 10

NOV date: December 8, 2005

violation description: debris matrix

Gravity Based Penalty

Potential for Harm – see below

Extent of Deviation – see below

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – Based on information provided in the response to the NOV and reevaluating the findings, it was determined that the documentation was adequate.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 11

NOV date: December 8, 2005

violation description: waste that inhibits
analysis

Gravity Based Penalty

Potential for Harm – MINOR – With the corrected chemistry, Aragonite was still within their permitted feed rate limits.

Extent of Deviation – MINOR – Aragonite complies with this requirement most of the time.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 12

NOV date: December 8, 2005

violation description: WAP
characterization
procedure

Gravity Based Penalty

Potential for Harm – MINOR – Aragonite did not specify the applicable waste characterization procedure, however, a characterization was done and was likely sufficient to ensure that feed rate limits were being met.

Extent of Deviation – MINOR – Aragonite complies with this requirement most of the time.

Multiple/Multi-day – Two different occurrences were cited in the NOV.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information –

NOTE: The instances that were documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 13

NOV date: December 8, 2005

violation description: quality assurance
reports

Gravity Based Penalty

Potential for Harm – see below

Extents of Deviation – see below

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – The reports were provided as part of the response to the NOV.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 14

NOV date: December 8, 2005

violation description: TCLP room
temperature

Gravity Based Penalty

Potential for Harm – MINOR – It is likely that the quality of the results were still adequate.

Extent of Deviation – MINOR – A system was in place for monitoring the temperature but it was not functioning.

Multiple/Multi-day –

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 15

NOV date: December 8, 2005

violation description: barcodes

Gravity Based Penalty

Potential for Harm – MINOR – The lack of a barcode (or having non-unique barcodes) leads to wastes that are not tracked properly. However, the facility is secured and the waste was stored in permitted hazardous waste facilities.

Extent of Deviation – MINOR – Barcodes are used on thousands of drums at the site. Very few were missing barcodes or had incorrect barcodes. Some had barcodes originally but they had come off of the container.

Multiple/Multi-day – Seven different occurrences were cited in the NOV.

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instances that were documented occurred before and after February 25, 2005, so both penalty matrices were used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 16

NOV date: December 8, 2005

violation description: unaccepted waste
storage locations

Gravity Based Penalty

Potential for Harm – MINOR – The drum was located in a permitted storage area. Very little waste was involved.

Extent of Deviation – MINOR – Aragonite complies with this requirement most of the time.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 17

NOV date: December 8, 2005

violation description: venting during
backup operations

Gravity Based Penalty

Potential for Harm – MODERATE – Without the damper being open, the enclosure was not being properly vented and could cause a release of air emissions from the hazardous waste storage tanks.

Extents of Deviation – MINOR – There is a system for venting the bulk solids building but it malfunctioned. The reading on the control board showed that the damper was open when it was not. Aragonite complies with this requirement most of the time.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred before February 25, 2005, so the old penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 18

NOV date: December 8, 2005

violation description: Subpart BB
equipment / database

Gravity Based Penalty

Potential for Harm – MODERATE – There were a number of problems discovered in the relatively small portion of the plant inspected. The material in these systems contains a significant concentration of VOCs.

Extent of Deviation – MODERATE – Although there was a program in place for tracking and monitoring the equipment, there were numerous discrepancies between the drawings, database, and the equipment located in the plant.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 19

NOV date: December 8, 2005

violation description: emergency
equipment

Gravity Based Penalty

Potential for Harm – MINOR – There were other fire extinguishers within a short distance of the one that was missing.

Extent of Deviation – MINOR – Only one fire extinguisher was missing. Alternates were available.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue was on the previous NOV.

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 20

NOV date: December 8, 2005

violation description: firebreak/emergency
exits

Gravity Based Penalty

Potential for Harm – MODERATE – Severe damage could result from range fires encroaching on the plant. A large portion of the firebreak was covered. Although secondary exits were available, they were on the other side of the facility and might not have been on the proper side for evacuation.

Extent of Deviation – MINOR – Although a significant number of tumbleweeds had accumulated, Aragonite had made attempts to keep the area clear.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – Aragonite has proposed constructing a fence or some other barrier that will channel the tumbleweeds away from the facility fence or otherwise prevent tumbleweeds from accumulating along the perimeter fence and firebreak.

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 21

NOV date: December 8, 2005

violation description: perimeter signs

Gravity Based Penalty

Potential for Harm – MINOR – Although some of the signs were either missing or obscured by tumbleweeds, there were additional signs around the facility to warn of the dangers. There is also a fence around the entire facility to prevent access.

Extent of Deviation – MINOR – Aragonite posts extra signs in case some fall off.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – N/A

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – N/A

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.

**NARRATIVE EXPLANATION TO SUPPORT
SETTLEMENT PENALTY AMOUNT**

NOV # 0512039

violation number (from NOV) 22

NOV date: December 8, 2005

violation description: overfill sludge tank

Gravity Based Penalty

Potential for Harm – MINOR – The capacity of the tank was not exceeded.

Extent of Deviation – MINOR – Although the compliance limit was exceeded, the tank did not overflow.

Multiple/Multi-day – N/A

Adjustment Factors (if applicable)

Good faith – Aragonite notified the Division of the problem.

Willfulness/Negligence – N/A

History of Compliance or Noncompliance – This issue has been on three of the last five NOV's

Ability to pay – N/A

Environmental Projects – N/A

Other Unique Factors – N/A

Economic Benefit – N/A

Recalculation of Penalty based on New Information – N/A

NOTE: The instance that was documented occurred after February 25, 2005, so the new penalty matrix was used.